

BEFORE THE GROWTH MANAGEMENT HEARINGS BOARD
CENTRAL PUGET SOUND REGION
STATE OF WASHINGTON

PAUL STICKNEY and RICHARD BIRGH,

Petitioners,

v.

CITY OF SAMMAMISH,

Respondent.

CASE No. 15-3-0017

ORDER ON COMPLIANCE

I. INTRODUCTION

On July 13, 2016, the Board issued its Final Decision and Order in this case. The Board found the City of Sammamish Comprehensive Plan Housing Element failed to make adequate provisions for existing and projected needs of all economic segments of the community, contrary to RCW 36.70A.070(2) and RCW 36.70A.020(4).

On December 6, 2017, the City of Sammamish adopted Ordinance No. O2016-426 (Compliance Ordinance), amending the Housing Element of the City of Sammamish Comprehensive Plan. On December 23, 2016, the City of Sammamish filed its Statement of Actions Taken to Comply, providing a copy of the Compliance Ordinance and attached exhibits. The City also filed a Compliance Index. Petitioners filed Objections to a Finding of Compliance on January 9, 2017. The City filed a Response to Objections on January 17, 2017.

Pursuant to RCW 36.70A.330(1) and (2), the Board conducted a telephonic compliance hearing on January 26, 2017. Board members Deb Eddy and Cheryl Pflug attended the hearing. Raymond Paoella convened the telephonic hearing as the Presiding Officer. Stephen Papik represented Paul Stickney and Richard Birgh. Respondent City of Sammamish was represented by their attorneys Kim Adams Pratt and Amy Mill.

II. STANDARD OF REVIEW

After the Board has entered a finding of noncompliance, the local jurisdiction is given a period of time to adopt legislation to achieve compliance.¹ After the period for compliance has expired, the Board is required to hold a hearing to determine whether the local jurisdiction has achieved compliance.² For purposes of Board review of the comprehensive plans and development regulations adopted by local governments in response to a non-compliance finding, the presumption of validity applies and the burden is on the challenger to establish that the new adoption is clearly erroneous in view of the entire record before the board and in light of the goals and requirements of the (Growth Management Act) GMA.³

In order to find the County's action clearly erroneous, the Board must be "left with the firm and definite conviction that a mistake has been made."⁴ Within the framework of state goals and requirements, the Board must grant deference to local governments in how they plan for growth.⁵ Thus, during compliance proceedings the burden remains on the Petitioner to overcome the presumption of validity and demonstrate that **any action** taken by the County is clearly erroneous in light of the goals and requirements of chapter 36.70A RCW (the Growth Management Act).⁶

III. DISCUSSION

Final Decision and Order (July 13, 2016)

The Board found the City of Sammamish out of compliance with the GMA as follows:

- City of Sammamish Ordinance O2015-396 failed to make adequate provisions for existing and projected housing needs of all economic segments of the community, contrary to RCW 36.70A.070(2) and RCW 36.70A.020(4).
- The challenged Comprehensive Plan Housing Element was inconsistent with the Countywide Planning Policies for King County because Ordinance O2015-396

¹ RCW 36.70A.300(3)(b).

² RCW 36.70A.330(1) and (2).

³ RCW 36.70A.320(1), (2), and (3).

⁴ *Department of Ecology v. PUD1*, 121 Wn.2d 179, 201, 849 P.2d 646 (1993).

⁵ RCW 36.70A.3201.

⁶ RCW 36.70A.320(2).

1 failed to establish any numeric or percentage goals for the City's "share" of
2 countywide housing needs in the moderate, low, and very low income housing
3 categories, contrary to RCW 36.70A.100 and RCW 36.70A.210(1).

4 The record before the Board for Ordinance O2015-396 showed that 32% of
5 Sammamish households were "cost-burdened," i.e., spending more than 30% of household
6 income on housing; and 9% of Sammamish households were "severely cost-burdened," i.e.,
7 spending more than 50% of household income on housing. Also, 13% of households fall
8 within the moderate to very low income range but only 5% of housing stock is affordable for
9 moderate or low income households and none is affordable for very-low income
10 households. The evidence indicated that relatively high rents in Sammamish may contribute
11 to the low proportion of the workforce that can afford to live in the community - necessitating
12 longer commutes and increasing private and public transportation costs which further shift
13 financial resources of households away from housing.⁷
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16 **Board Analysis of Compliance Ordinance**

17 The 2015 noncompliant Ordinance O2015-396 relied on a Housing Analysis Table S-
18 1 that presented countywide housing need targets but had no column showing
19 Sammamish's targets corresponding to a "share" of the countywide housing need.⁸ In an
20 attempt to achieve compliance, Sammamish passed Ordinance O2016-426 amending the
21 Comprehensive Plan Housing Element. The Amended Housing Element adopts numeric
22 and percentage goals for the City's share of countywide needs for these three economic
23 segments:
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- 26 • 557 housing units affordable for very-low-income households;
- 27 • 557 housing units affordable for low-income households; and
- 28 • 742 housing units affordable for moderate-income households.
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32 ⁷ Sammamish Comprehensive Plan, Background Information – Housing Analysis (Vol. 2, January 2015) pp. I-24 & II-4.

⁸ Sammamish Comprehensive Plan, Background Information – Housing Analysis (Vol. 2, January 2015) p. II-3.

The following new figure was included in the Amended Housing Element⁹:



Petitioners object to the Compliance Ordinance, alleging that the City must “conduct a complete housing needs analysis that determines the housing supply, need, and gap between the two for all economic and demographic segments of the community.”¹⁰ Petitioners point to housing recommendations in WAC 365-196-410(2)(b).

The amended Housing Element states:

Currently the supply of existing affordable housing for lower income households is less than existing needs both countywide and in many cities, especially for very low income households. Sammamish has only about 2

⁹ City of Sammamish Comprehensive Plan Housing Element (December 6, 2016) p. 79.

¹⁰ Petitioners' Objections (January 6, 2017) at 9.

1 percent of the City's existing housing stock affordable at up to 50 percent of
2 median income, and about 5 percent affordable between 50 percent and 80
3 percent of median income. This is a much lower proportion than most other
4 cities countywide and in East King County.¹¹

5 In addition, the amended Housing Element is supported by a housing needs analysis
6 which quantifies existing and projected housing needs and identifies the number of housing
7 units necessary to accommodate projected growth.

8 With the Compliance Ordinance, the City's amended Housing Element does contain
9 inventory data and analysis of the gap between supply and existing/projected housing
10 needs. Furthermore, the amended Housing Element adds new policies on meeting its
11 share of countywide affordable housing needs (i.e., households at 80%, 50%, and 30% of
12 Area Median Income):

13
14 Policy H.3.1

15 Develop and implement plans and strategies that promote a proportionate
16 amount of the countywide needs for housing affordable to households with
17 moderate, low and very low incomes, including those with special needs.

18 Policy H.4.5

19 Support public and private housing and services for people who are homeless.

20 Policy H.6.1

21 Adopt a Housing Strategy Plan to outline benchmarks, steps and milestones
22 toward implementation of this Housing Element.¹²

23 The strategies in the amended Housing Element include follow up monitoring,
24 reassessing and adjusting affordable housing policies during the 20-year planning period in
25 Comprehensive Plan Housing Element Goal H.6; Policies H.6.1, H.6.3, H.6.4., H.6.5.

26 The Board finds and concludes that Petitioners have failed to satisfy their burden of
27 proof to show that the amended Housing Element adopted by Ordinance O2016-426
28 violates the GMA.
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¹¹ Housing Element Update, p. 78, Amended December 6, 2016, by City of Sammamish Ordinance O2016-426.

¹² *Id.*

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IV. ORDER

Based upon review of the July 13, 2016, Final Decision and Order, the City's Statement of Actions Taken to Achieve Compliance and Ordinance No. O2016-426, the Growth Management Act, prior Board orders and case law, having considered the arguments of the parties offered in the briefing and at the compliance hearing, and having deliberated on the matter, the Board Orders:

- The City of Sammamish is in compliance with the Growth Management Act; and
- Case No. 15-3-0017 is **closed**.

SO ORDERED this 10th day of March, 2017.

Raymond L. Paolella, Board Member

Deb Eddy, Board Member

Cheryl Pflug, Board Member

Note: This is a final decision and order of the Growth Management Hearings Board issued pursuant to RCW 36.70A.300.¹³

¹³ Should you choose to do so, a motion for reconsideration must be filed with the Board and served on all parties within ten days of mailing of the final order. WAC 242-03-830(1), WAC 242-03-840. A party aggrieved by a final decision of the Board may appeal the decision to Superior Court within thirty days as provided in RCW 34.05.514 or 36.01.050. The petition for review of a final decision of the board shall be served on the board but it is not necessary to name the board as a party. See RCW 36.70A.300(5) and WAC 242-03-970.